

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BILL ROVID, et al.,
Plaintiffs,

v.

GRACO CHILDREN'S PRODUCTS
INC., et al.,
Defendants.

Case No. 17-cv-01506-PJH

**ORDER DENYING PARTIES'
REQUEST RE COMPLIANCE WITH
RULE 45 SUBPOENA**

Re: Dkt. No. 29

On January 25, 2018, defendant Graco Children's Products, Inc. ("Graco") served a Federal Rule of Civil Procedure 45 subpoena on Adam Williams. Williams is the the Alameda County Sheriff's Deputy and led the Alameda County Coroner's Bureau's investigation into the death of plaintiffs' daughter (the "investigation"). Dkt. 29-1, Swaney Decl. ¶ 3; Dkt. 29-1, Ex. A. That subpoena required Williams to appear for a deposition on March 5, 2018, and to produce documents relevant to the Coroner's Bureau's investigation. Ex. A. At his deposition on March 5, 2018, Williams informed the parties that though the Coroner's Bureau had identified non-public responsive documents, it would not release those documents without a court order. Swaney Decl. ¶¶ 6-8.

The parties now jointly request the court for an "Order Directing Compliance with Rule 45 Subpoena." Dkt. 29-2. Specifically, the parties request the court order Williams to produce all documents related to the investigation, "includ[ing] documents related to the post-mortem examination of [plaintiffs' daughter] in the custody of the Alameda County Sheriff's Office Coroner's Bureau." *Id.* (emphasis added).

That request is DENIED. Graco's Rule 45 subpoena is directed at Adam Williams

1 as an individual. See Ex. A. Under Rule 45, a subpoena recipient must produce the
2 requested documents only if those documents are “in that person’s possession, custody,
3 or control.” Fed. R. Civ. P. 45(a)(1)(A)(iii). The parties do not argue that Williams failed
4 to do so. Instead, the parties argue that Williams should be compelled to produce
5 documents “in the custody of the Alameda Sheriff’s Office Coroner’s Bureau.” Dkt. 29-2.
6 Rule 45 does not impose such a burden, and neither will the court.

7 In short, Graco has issued a subpoena on the wrong entity. If Graco wishes to
8 obtain the non-publicly available documents related to the investigation, then Graco’s
9 subpoena should be directed to the Alameda Sheriff’s Office Coroner’s Bureau’s
10 Custodian of Records, or another similarly situated person.

11 **IT IS SO ORDERED.**

12 Dated: March 9, 2018



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14 PHYLLIS J. HAMILTON
United States District Judge
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